

Reply to Office Action of April 20, 2005

REMARKS

Claims 1-9 remain in the application with claims 1, 7, 8 and 9 being in independent form. No claims have been amended hereby.

The Examiner's attention is directed to the fact that Claims 8 and 9 were added on the Applicants' Amendment of October 29, 2004, and it is respectfully requested that these new claims be entered.

Claims 1-7 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Soliman et al. (U.S. Patent Number 6,111,857) in view of Kawakami et al. (U.S. Patent Number 6,418,123).

Independent claim 1 relates to a method for automatically designing cellular mobile radio telephone networks from network-related and space-related reference data. The reference data includes existing planning data of implemented, planned or abstract cellular mobile radio telephone networks or subnetworks. The reference data additionally includes the space-related data of their planning areas, and the space-related data of a new planning area. A design of the cellular mobile radio telephone network or subnetwork for the new planning area is automatically generated by processing the relationships between the space-related reference and the space-related

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data of the new planning area and application of coordinate and angle transformations to the site coordinates of the base stations and main beam directions of the antennas of the base stations of the reference data.

Soliman et al. relates to a tool that may be used in planning a wireless network by analyzing a computer simulation of the planned network to determine if the planned network achieves a stable result. Multiple iterations of analysis may be performed until a stable result is achieved.

Kawakami et al. relates to a computer assisted design tool that calculates an access communication network structure and necessary civil construction facilities that are accomplished at low deployment costs and that satisfy a demand considering geographical shape, facility deployment position alternative, subscription demand, and existing facilities with limited conditions of communication quality and deployed positions of communication facilities.

The Office Action notes that neither Soliman et al. nor Kawakami et al. specifically disclose that the design of the cellular mobile radio telephone network or subnetwork for the new planning area is automatically generated by processing the relationships between the

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space-related reference and the space-related data of the new planning area and application of coordinate and angle transformations to the site coordinates of the base stations and main beam directions of the antennas of the base stations of the reference data.

The Examiner contends that the use of "existing planning data is well known in the art, and that the examiner takes official notice as such." However, the Applicants submit that in the art of automatically designing cellular mobile radio telephone networks, processing the relationships between the space-related reference and the space-related data of the new planning area and application of coordinate and angle transformations to the site coordinates of the base stations and main beam directions of the antennas of the base stations of the reference data is patentably novel and not known in the art.

According to the MPEP section 2144.03:

Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute" (citing *In re*

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Knapp Monarch Co., 296 F.2d 230, 132 USPQ 6 (CCPA 1961))....

It would not be appropriate for the examiner to take official notice of facts without citing prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21.

It is respectfully submitted that the Examiner's position that "processing the relationships between the space-related reference and the space-related data of the new planning area and application of coordinate and angle transformations to the site coordinates of the base stations and main beam directions of the antennas of the base stations of the reference data" is known in the art of automatically designing cellular mobile radio telephone networks is not "capable of such instant and unquestionable demonstration as to defy dispute."

In fact, by taking official notice of this point, the Examiner asserts technical facts in the areas of esoteric technology or specific knowledge of the prior art. Taking the guidance of the MPEP, this type contention must always be supported by citation. Therefore, the Applicants respectfully request that the Examiner offer a reference

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within the art of automatically designing cellular mobile radio telephone networks that teaches "processing the relationships between the space-related reference and the space-related data of the new planning area and application of coordinate and angle transformations to the site coordinates of the base stations and main beam directions of the antennas of the base stations of the reference data." If there is no such citation, it is submitted that the rejection should be withdrawn.

Moreover, even if, as the Examiner suggests, "the use of existing planning data is well known in the art," the primary reference Kawakami et al. does not include a motivation to combine a computer assisted design tool with the use of existing planning data. In fact, Kawakami et al. appears to teach away from such an approach, instead choosing to rely on computer simulations to establish the stability of a communications network arrangement.

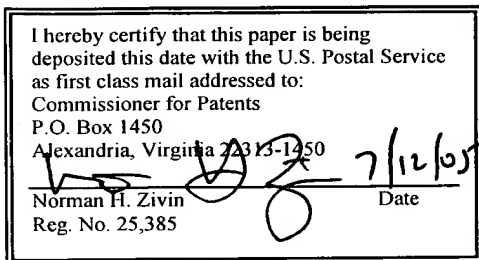
It is respectfully submitted that independent claim 1 is patentable over the cited art for at least the above reasons. Claims 2-7 are also patentable for at least the same reasons.

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Favorable reconsideration is earnestly solicited.

Respectfully submitted,

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